

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

In re:

DAVID MICHAEL MOBLEY

Debtor.

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Case No. 22-60004

Chapter 11

DEBTOR'S RESPONSE TO MOTION TO CONVERT CASE

TO THE HONORABLE U.S. BANKRUPTCY COURT:

David Michael Mobley (the “*Debtor*”) hereby files this Response to Motion to Convert Case.

Introductory Statement

In his recent Motion to Dismiss Case, Debtor characterized this case as a two-party dispute better resolved outside of bankruptcy. The Motion to Convert case reinforces this premise. The QLRS parties have failed to establish a claim against the Debtor in nearly a decade of litigation. They may have a multi-million dollar claim or they may have no claim at all. It seems likely that this Motion to Convert is aimed more at gaining a litigation advantage than in pursuing any creditor interest they may hold.

Specific Admissions and Denials

1. Debtor denies the allegations of para. 1.
2. Debtor admits the allegations of para. 2.
3. Debtor admits the allegations of para. 3.
4. Debtor admits the allegations of para. 4.
5. Paragraph 5 is legal argument and does not require admission or denial.

6. Debtor admits that he executed a deed in lieu of foreclosure to Reb TX EC Ventures, LLC, a lienholder upon such properties. Regardless of the secured claim asserted by the IRS in this bankruptcy case, the IRS had filed a tax lien for over \$3 million. Debtor denies the remainder of para. 6.

7. Debtor admits that he justified the transfer based on the fact that the property was fully encumbered. Debtor denies the remainder of para. 7.

8. Debtor admits the allegations of para. 8.

9. Debtor denies the allegations of para. 9.

10. Debtor admits that he has claimed the 77 acres as his homestead and that he has not objected to the claim of First Financial Bank. Debtor denies the remainder of para. 10.

11. Debtor admits that the homestead issue has not been resolved by the Court. Debtor denies the remainder of para. 11.

12. Debtor denies the allegations of para. 12.

13. Debtor denies the allegations of para. 13.

14. Debtor admits that he received \$55,000. The funds were transferred to him in error. Debtor then transferred the funds so that they could be directed to the proper party.

15. Debtor admits that he transferred the sum of \$802,662.66. These were funds from sale of Debtor and his wife's prior homestead. Under a prenuptial agreement, his wife was entitled to half of the proceeds. Debtor denies the remainder of para. 15.

16. Debtor denies the first sentence of para. 16. Debtor admits that he has not yet filed the Reports under Rule 2015.3. Debtor will provide these reports.

17. Debtor denies the allegations of para. 17.

18. Debtor denies the allegations of para. 18.

19. Debtor admits the allegations of para. 19.

20. Debtor admits the allegations of para. 20 in part. Section 704(a)(8) and Rule 2015(a)(3) refer to a business operated by the Debtor. The Debtor does not operate a business. Rule 2015.3 refers to filing summary reports with respect to businesses in which the Debtor has an interest.

21. Para. 21 is legal argument which does not require admission or denial.

22. Debtor admits that he has not yet filed Rule 2015.3 reports. The rule requires “periodic” reports but does not specify what the periodic reporting requirement is.

23. Debtor admits that he has filed the required monthly operating reports for himself and has not yet filed the Rule 2015.3 reports for his companies. Debtor denies the remainder of para. 23.

24. Debtor denies the allegations of para. 24.

25. Debtor admits the allegations of para. 25.

26. Debtor admits that the Court denied the Debtor’s subchapter V election. Debtor denies the remainder of para. 26.

27. Debtor denies the allegations of para. 27.

28. Debtor admits the allegations of para. 28.

29. Debtor admits the allegations of para 29.

30. Debtor admits that the Court has cause to take one of the actions listed.

31. Debtor admits the first sentence of para. 31. The remainder of para. 31 is a quotation from an opinion which the Debtor is not required to admit or deny.

32. Debtor denies the allegations of para. 32.

33. Debtor denies the allegations of para. 33.

34. Debtor admits the first sentence of para. 34. The remainder of para. 34 is legal argument which does not require admission or denial.

35. Debtor denies the allegations of para. 35.

36. Debtor admits that he has scheduled assets of \$3,779,470.71. Debtor denies the remainder of para. 36.

37. Debtor denies the allegations of para. 37.

38. Debtor admits that Texas Mats is paying his wife. Debtor denies the remainder of para. 38.

39. Debtor denies the allegations of para. 39

40. Debtor admits that courts have inherent authority to convert cases for lack of good faith. The remainder of para. 40 is legal argument which does not require admission or denial.

41. Debtor denies the allegations of para. 41.

42. Debtor denies the allegations of para. 42.

43. Debtor admits the allegations of para. 43.

44. Para. 44 is legal argument which does not require admission or denial.

45. Para. 45 is legal argument which does not require admission or denial.

46. Debtor denies the allegations of para. 46.

47. Debtor denies the allegations of para. 47.

48. Debtor denies the allegations of the paragraph entitled Conclusion.

49. Debtor requests that this case be dismissed rather than converted.

Respectfully submitted,

BARRON & NEWBURGER, P.C.
7320 N. MoPac Expressway., Suite 400
Austin, Texas 78731
(512) 476-9103
(512) 279-0310 (Facsimile)
ssather@bn-lawyers.com
By: /s/Stephen W. Sather
Stephen W. Sather
State Bar No. 17657520

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that I served the above and foregoing Motion on the parties listed on the attached matrix on this the 6th day of October 2022.

/s/Stephen W. Sather
Stephen W. Sather

Label Matrix for local noticing
0541-6
Case 22-60004
Southern District of Texas
Victoria
Fri Jul 29 13:32:03 CDT 2022

First Financial Bank, N.A.
P.O. BOX 3679
Abilene, TX 79604-3679

Ford Motor Credit Company LLC
Devlin, Naylor & Turbyfill, P.L.L.C.
c/o George F. Dunn
5120 Woodway Dr., Ste. 9000
Houston, TX 77056-1725

Fort Bend County
Linebarger Goggan Blair & Sampson LLP
c/o Jeannie Lee Andresen
P.O. Box 3064
Houston, TX 77253-3064

Quality Lease Rental Service, LLC
c/o Walter J. Cicack
Hawash Cicack & Gaston LLP
3401 Allen Parkway, Suite 200
Houston, TX 77019-1857

Quality Lease Service, LLC
c/o Walter J. Cicack
Hawash Cicack & Gaston LLP
3401 Allen Parkway, Suite 200
Houston, TX 77019-1857

Quality Lease and Rental Holdings, LLC
c/o Walter J. Cicack
Hawash Cicack & Gaston LLP
3401 Allen Parkway, Suite 200
Houston, TX 77019-1857

Rocaceaia, LLC
c/o Walter J. Cicack
Hawash Cicack & Gaston LLP
3401 Allen Parkway, Suite 200
Houston, TX 77019-1857

Texas Champion Bank
c/o Mike Thiltgen
P.O. Box 270550
Corpus Christi, TX 78427-0550

Texas Quality Mats, LLC
P.O. Box 168
El Campo, TX 77437-0168

Wharton County, Texas
c/o Tara LeDay
P.O. Box 1269
Round Rock, TX 78680-1269

6
United States Bankruptcy Court
PO Box 61010
Houston, TX 77208-1010

AT&T Corp
PO Box 5072
Carol Stream, IL 60197-5072

Allan Martin
c/o REID, COLLINS, & TSAI LLP
1301 S. Capital of Texas Hwy Building C
Austin, TX 78746-6550

Bank of America
P.O. Box 15284
Wilmington, DE 19850-5284

Bank of America, N.A.
PO Box 673033
Dallas, TX 75267-3033

Enhanced Recovery
8014 Bayberry Rd.
Jacksonville, FL 32256-7412

FORD CREDIT
PO BOX 650575
Dallas, TX 75265-0575

First Financial Bk Min
Po Box 2559
Abilene, TX 79604-2559

First State Bank - Louise
Card Service Center
PO Box 569120
Dallas, TX 75356-9120

Ford Motor Credit Company, LLC
C/o George F. Dunn
5120 Woodway Dr., Suite 9000
Houston, Texas 77056-1725

Fort Bend County
c/o Jeannie Lee Andresen
Linebarger Goggan Blair & Sampson LLP
P.O. Box 3064
Houston, Tx 77253-3064

Fort Bend County
c/o John P. Dillman
Linebarger Goggan Blair & Sampson LLP
P.O. Box 3064
Houston, Tx 77253-3064

Greta Yvette Mobley
1082 County Road 451
El Campo, TX 77437-5593

Independent Bankersbank
c/o Creditors Bankruptcy Service
P.O. Box 800849
Dallas, TX 75380-0849

Internal Revenue Service
Centralized Insolvency Office
P. O. Box 7346
Philadelphia, PA 19101-7346

Lincoln Automotive Fin
Attn: Bankrutcy
PO Box 54200
Omaha, NE 68154-8000

M/G Finance Co., Ltd.
c/o John Seth Bullard
Orgain, Bell & Tucker, LLP
PO Box 1751
Beaumont, TX 77704-1751

MATAGORDA INDEPENDENT SCHOOL DISTRICT
1700 7th Street, Room 203
Bay City TX 77414-5034

MG Finance Co LTD
1655 Louisiana Street
Beaumont, TX 77701-1120

People's United Equipment Finance Corp.
c/o T. Josh Judd
Andrews Myers, P.C.
1885 Saint James Place, 15th Floor
Houston, Texas 77056-4175

Peoples Bank
5820 82nd Street
Lubbock, TX 79424-3617

Quality Lease Rental Service, LLC
c/o REID, COLLINS, & TSAI LLP
1301 S. Capital of Texas Hwy Building C,
Austin, TX 78746-6574

Quality Lease Service, LLC
c/o REID, COLLINS, & TSAI LLP
1301 S. Capital of Texas Hwy Building C,
Austin, TX 78746-6574

Quality Lease and Rental Holdings, LLC
23403B NW Zac Lentz Pkwy
Victoria, TX 77905-0702

Reid, Collins, & Tsai LLP
ATTN: Lisa S. Tsai
1301 S. Capital of Texas Hwy Building C
Austin, TX 78746-6550

Richard E. Borstmayer
c/o Kyle R. Watson
Winstead PC
24 Waterway Ave Suite 500
The Woodlands, TX 77380-3289

Rocaceaia, LLC
c/o REID, COLLINS, & TSAI LLP
1301 S. Capital of Texas Hwy Building C,
Austin, TX 78746-6574

Santander Consumer USA
Attn: Bankruptcy 10-64-38-FD7 601 Penn
Reading, PA 19601

Santander Consumer USA, Inc.
d/b/a Chrysler Capital
P.O. Box 961275
Fort Worth, TX 76161-0275

Texas Champion Bank
P.O. Box 270550
Corpus Christi, Texas 78427-0550

Texas Champion Bank
PO Box 2090
Alice, TX 78333-2090

US Trustee
Office of the US Trustee
515 Rusk Ave
Ste 3516
Houston, TX 77002-2604

United States Attorney General
Centralized Insolvency Office
950 Pennsylvania Avenue NW
Washington, DC 20530-0009

United States Attorney General
Internal Revenue Service
1000 Louisiana St Ste 2300
Houston, TX 77002-5010

Wharton County
c/o Julie Anne Parsons
P.O. Box 1269
Round Rock, TX. 78680-1269

Wharton County
c/o Tara LeDay
P.O. Box 1269
Round Rock, Texas 78680-1269

Wood, Boykin, & Wolter
ATTN: Peter E. Avots & Joseph B. Baucum
615 North Upper Broadway, Suite 1100
Corpus Christi, TX 78401-0748

David Michael Mobley
3815 Montgomery Rd
Richmond, TX 77406

Janet Northrup, Chapter 7 Trustee
c/o Heather McIntyre
1201 Louisiana, 28th Floor
Houston, TX 77002-5607

Jerome A Brown
The Brown Law Firm
13900 Sawyer Ranch Rd
Dripping Springs, TX 78620-4539

Melissa A Haselden
Haselden Farrow PLLC
Pennzoil Place
700 Milam
Suite 1300
Houston, TX 77002-2736

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(u)MATAGORDA ISD

(u)People's United Equipment Finance

End of Label Matrix
Mailable recipients 51
Bypassed recipients 2
Total 53